

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

UNITED STATES OF AMERICA,

Plaintiff,

ORDER

v.

03-CR-178-C-01

MELVIN D. CARLTON,

Defendant.

A hearing on the revocation of Melvin D. Carlton's supervised release was held in this case on April 10, 2008, before United States District Judge Barbara B. Crabb. The government appeared by Assistant United States Attorney Rita M. Rumbelow. Defendant was present in person and by counsel, Kelly A. Welsh. Also present was United States Probation Officer William T. Badger.

From the record and defendant's stipulation, I make the following findings of fact.

FACTS

Defendant was sentenced in the Western District of Wisconsin on May 5, 2004, following his conviction for felon in possession of a firearm, in violation of 18 U.S.C. § 922(g)(1), a Class C felony. He was committed to the custody of the Bureau of Prisons to serve a term of imprisonment of 24 months, with a 36-month term of supervised release

to follow.

Defendant began his initial term of supervised release on August 11, 2005. Thereafter, defendant violated his terms of supervised release by failing to report a change in residence, driving without a valid driver's license and insurance, and failing to report a change of employment status to his probation officer. As a result of these violations, on January 23, 2006, I modified defendant's conditions of supervised release by ordering him to reside at the Fahrman Center for a period not less than 60 days and not more than 120 days.

On October 16, 2006, I revoked defendant's term of supervised release because he had used a controlled substance, left the judicial district without the permission of the court or probation officer, and associated with a felon. Defendant was committed to the custody of the Bureau of Prisons for a term of 24 months' imprisonment with a 12-month term of supervised release to follow.

Defendant began his second term of supervised release on October 11, 2007. In October 2007, he moved from his approved residence in Superior, Wisconsin, without permission. In December 2007, he absconded from supervision. Defendant stipulates that he violated Standard Condition No. 6, which required him to notify the probation officer at least ten days before making any change in residence or employment.

Defendant's conduct falls into the category of Grade C violations, as defined by §7B1.1(a)(3)(B) of the sentencing guidelines policy statement for violations of supervised release. In addressing such violations, the court has the discretion to revoke supervised

release, extend it or modify the conditions of release.

CONCLUSIONS

Defendant's violations warrant revocation. Accordingly, the 12-month term of supervised release imposed on defendant on October 16, 2006, will be revoked.

Defendant's criminal history category is III. With a Grade C violation and a criminal history category of III, he has a guideline term of imprisonment of 5 to 11 months. Pursuant to 18 U.S.C. § 3583(e)(3), the statutory maximum to which he can be sentenced upon revocation is 24 months.

After reviewing the non-binding policy statements of Chapter 7 of the Sentencing Guidelines, I have selected a sentence near the top of the guideline range. The intent of this sentence is to provide defendant a drug-free, structured setting and to protect the community.

ORDER

IT IS ORDERED that the period of supervised release imposed on defendant on October 11, 2007, is REVOKED and defendant is committed to the custody of the Bureau of Prisons for a term of nine months with no additional term of supervised release to follow.

Defendant does not have the financial means or earning capacity to pay the cost of his incarceration.

Entered this 10th day of April, 2008.

BY THE COURT:

/s/

BARBARA B. CRABB

Chief District Judge